

## SECTION II-06 \_\_\_\_\_ PCR (Categorical Exclusion) Approval Process

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This section discusses the approval of the following documents:

- Draft Project Concept Report (Draft PCR)
- Final Project Concept Report (Final PCR)
- Public Hearing Transcript
- Summation of Public Hearing and Project Decisions Document
- Categorical Exclusions (CATEX)

See Distribution Guidelines Table - Appendix II-03 B.

All projects that use federal money require environmental clearance. Categorical Exclusions (CATEX's) are the most common type of environmental clearances used by the NDDOT. The basis for most of the NDDOT CATEX's are Project Concept Reports (PCR's). CATEX's are actions (projects) that do not individually or cumulatively have any significant environmental impacts.

Federal concept approval is also required for projects on the National Highway System valued at one million dollars (\$ 1,000,000.00) or more. Concept approval is sometimes requested with the CATEX document.

### II-06.01 Types of PCR'S

This guidance document separates the types of PCRs' into 4 groups, based on the scope of work and federal funding, in an effort to help clarify the approval and distribution process. See Section I-16 of this manual for definitions and examples of maintenance, preventative maintenance, rehabilitation, new construction, reconstruction, resurfacing and restoration projects.

**Required PCR Approvals**

Type of Projects	Federal Aid	Non-Federal Aid
Maintenance, Preventative Maintenance and other District Fund Administrated Projects	<u>Group 2 PCRs</u> Deputy Director for Engineering and FHWA	<u>Group 3 PCRs</u> District Engineer
New Construction, Reconstruction, Resurfacing, Rehabilitation, Restoration	<u>Group 1 PCRs</u> Deputy Director for Engineering and FHWA	<u>Group 4 PCRs</u> Deputy Director for Engineering

## **II-06.02 Approval Steps**

This document describes the approval process for the PCR in three steps

1. Review and refinement
2. NDDOT approval
3. FHWA approval

Not all types of PCR's as noted in the Required PCR Approvals Table follow all steps.

PCR's in groups 1 and 2 usually follow all steps (1 through 3)

Seal Coat PCR's in group 2 do not need to be sent out for comment.

PCR's in group 3 only follow step 2.

PCR's in group 4 only follow steps 1 through 2

### **II-06.02.1 Step 1 (Review And Refinement)**

The draft PCR is circulated for comments in this step. See distribution guidelines table (distribu.wpd). The PCR writer is responsible for the distribution of the Draft PCR. Draft PCRs should be reviewed by the writer's section leader (district authors use District Engineer) before distributed for comments. These comments are used by the PCR writer to refine the PCR.

The Draft PCR should not be printed on color paper.

### **II-06.02.2 Step 2 (NDDOT Approval)**

All PCR's prepared by the Bridge or Design Divisions should be submitted for NDDOT approval through the Office of Infrastructure support.

All district or consultant PCR's should be submitted for NDDOT approval through the Consultant Agreement section of the Design Division. The report will then be advanced through the Office of Infrastructure Support to the Deputy Directory for Engineering.

The PCR used for NDDOT approval should include an executive summary with a decisions section directed towards only the Deputy Director for Engineering (only one signature block).

Two copies of the PCR should be submitted for approval and decisions. These two copies should be submitted to the section or office as described above. These copies should be unbound and should not be printed on color paper in order to facilitate future reproductions.

The PCR shall be submitted with a separate cover letter. The letter should indicate the documents are final and ready for review, decisions, and signature by the Deputy Directory for Engineering. This will help avoid confusing final and draft versions of the document.

As shown in the table, Required PCR Approvals, all projects except district fund administrated projects should be approved by the Deputy Director for Engineering (groups 1, 2, 4). Note the

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PCR's in group 4 are approved by the Deputy Director for Engineering because the funding on these types of project often change to federal participation. Maintenance, preventive maintenance and other district administered PCR's (groups 3) are to be approved by the respective District Engineer.

After the Deputy Directory for Engineering reviews the PCR and comments, and the decisions made, the original PCR with the complete decisions section, is forwarded to the Design Division.

#### **II-06.02.3 Step 3 (FHWA Approval - CATEX and/or Concept Approval)**

If the project is proposed to be classified as a categorical exclusion, there are 4 main methods of obtaining FHWA approval.

- Method 1 - No public hearing is required.
- Method 2 - A public hearing is to be held and federal approval of the PCR concepts is required.
- Method 3 - Programmatic Categorical Exclusion for Federal Aid Highway Seal Coat Projects (PCR group 3)
- Method 4 - Categorical Exclusions by Definition as described in the Code of Federal Regulations, 23 CFR, subsection 771.117.c

If the project doesn't fit either methods 3 or 4, the Deputy Director for Engineering should be prompted for a decision on the need for a public hearing. Usually the PCR writer includes this prompt as a question in the decisions section of the executive summary. If the project still doesn't fit one of the these methods, contact the Engineering and Environmental section leader in the Design Division for additional guidance.

##### **II-06.02.3.1 Method 1 - No Public Hearing Is Required**

The PCR is going to be the only environmental documentation. CATEX approval is required before final PCR distribution (see Processing CATEX). If federal concept approval is required, it must be received prior to final PCR distribution. Completion of Section 106 (cultural resources) is needed prior to requesting CATEX approval.

##### **II-06.02.3.2 Method 2 - a Public Hearing Is to Be Held and Federal Approval of the PCR Concepts Is Required**

In this method, federal approval is obtained in 2 steps. First the PCR is submitted to FHWA for review and they should only be asked for their approval of the PCR concepts at this time. This approval is desired before the public hearing in order help ensure that the appropriate concepts are presented to the public.

After FHWA approval of the PCR concepts is obtained, final PCR distribution can be made. At this point the environmental documentation is not complete but it will be supplemented with additional documents.

After the PCR is distributed, the public hearing is then held.

Following each required hearing on the state or urban system, a verbatim written transcript of the oral hearing proceedings is prepared. On the county system, the county prepares the written transcript of the oral hearings and submits the transcript to the Local Government Engineer. The determination of need for a verbatim transcript will be made in consultation with the FHWA. In all cases, a summary of public hearing comments will be prepared. Next, the public hearing transcript is distributed as required (see Appendix II-03 B) .

After the public hearing transcript is reviewed by the same people who reviewed the PCR, the post hearing meeting is held. This meeting should be held to discuss the project concept, alternates, and public testimony. This meeting is held to make recommendations to the decision-makers. On local-developed projects, the local agency determines who should attend the meeting, although the NDDOT District Engineer should be invited. On NDDOT-developed projects, the NDDOT determines who attends the meeting.

This is usually the last in-house, formal review of the project concepts. The PCR author is responsible for creating the summation of public hearing and project decisions document. This document undergoes a review and comment period similar to steps 1 and 2 of the PCR approval.

A "Draft Summation of Public Hearing" document containing recommendations is prepared. This document should address all comments received, as appropriate. A copy is circulated to all involved parties for comments (see distribu.wpd guide). After review, the summation document is submitted to the Deputy Director for Engineering for decisions. After the Summation of Public Hearing and Decisions Document is approved by the NDDOT, it is sent to FHWA, where appropriate, with a request for concurrence in a CATEX (see Processing CATEX). Completion of Section 106 (cultural resources) is needed prior to requesting CATEX approval. When the approved CATEX is received the Environmental documentation is complete and the Summation of Public Hearing and Decisions Document should be distributed (see distribu.wpd).

For locally developed projects, the Mayor or Commission Chairperson signs the summation document. The local agency submits it to the NDDOT for the purpose of receiving federal funds. After obtaining NDDOT approval of the project concepts, the local agency distributes the summation to all interested agencies and local officials.

NDDOT-developed projects. After the director approves the project concept, NDDOT distributes the summary to all interested agencies and local officials.

### **II-06.02.3.3 Method 3 - Programmatic Categorical Exclusion For Federal Aid Highway Seal Coat Projects**

Federal aid seal coat projects, which do not involve earthwork, should be environmentally approved by using the seal coat programmatic Categorical Exclusion (CATEX). The programmatic CATEX's do not need to be sent to FHWA. The project number should be written on a copy of the programmatic agreement and it should be entered into NDDOT's central file.

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Planning and Programming will obtain a copy of this form from central file and attach it to the JR1 form to submit to FHWA.

#### **II-06.02.3.4 Method 4 - Categorical Exclusions by Definition as Described in The Code of Federal Regulations, 23 CFR Part 771.117.C**

Projects that fit this category require very little environmental documentation. When possible these projects should be processed as described in method 1 (see Processing CATEX). However FHWA concurrence in a CATEX may be all the environmental documentation that is needed.

#### **II-06.03 Local Agency-developed PCR'S.**

When a city develops a PCR, they submit three copies of the draft report to NDDOT's Local Government Division (LGD). Three types of action on the draft are possible.

1. Local Government can approve the PCR and send it on to FHWA, recommending the project as a categorical exclusion. If FHWA concurs, no more work on the report is necessary.
2. Local Government can provide comments and ask for additional information, which would ultimately appear in the executive summary, (See Section 4.8.4 in the Local Government Manual).
3. Local Government can inform the local agency that the project is not eligible for federal aid.
4. The PCRs should be routed through the Cultural Resource Section of the Design Division.

Local Government coordinates the distribution, review, and comments within NDDOT. For projects on the NHS, the local agency submits three additional copies: two to Local Government, and one to the appropriate district engineer. NDDOT coordinates with FHWA on NHS projects.

The local agencies should allow four weeks for NDDOT review and comment of all draft PCRs.

#### **II-06.04 Categorical Exclusions**

After the NDDOT has approved the PCR or Summation of Public Hearing and Decisions Document (see Approval Process), concurrence in a categorical exclusion is requested.

Note, all CATEX's are submitted by the Engineering and Environmental section of the Design Division. The districts and consultants shall supply the Consultant Agreements Section of the Design Division with the needed environmental documentation. Examples of this documentation could include PCRs, Public Transcripts, Summation of Public Hearings and Decisions Documents.

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Design PCR authors should submit the environmental documents (PCR or Summation of Public Hearing and Decisions Document) to the Infrastructure Support Administrative Assistant.

After the Design Engineer has approved the CATEX. The Infrastructure Support Administrative Assistant will coordinate the distribution of the CATEX form and respective environmental documentation. This Administrative Assistant will hold the original environmental documentation until it has been approved by the FHWA.

**II-06.05 Project Concept Report Addendum**

A PCR addendum should only be used after a concept report has been approved by FHWA, the report has been sent to FHWA for final approval or if final distribution of the concept report has been completed. PCRs that need to be changed, but have not been advanced to stages discussed above should just be edited. If this editing could influence previous NDDOT decisions, the PCR should be returned to the Deputy Director for Engineering to verify the decisions. This may involve a second circulation of the PCR for comments. Other PCR's can be returned directly to the Deputy Director for Engineering for review and approval. In both of these cases, Writers should note the reason why the PCR is being returned and what needs to be addressed. Minor changes can be addressed by sending a memo noting changes (make sure memo is placed in central file). Writers should use their discretion in deciding who needs to be involved with a second NDDOT PCR approval (that has not been processed by FHWA). When in doubt about how to proceed with a second NDDOT approval, ask the Engineering and Environmental Section Leader in the Design Division.